

Dr M: Najib's NSC Act powers 'are more superior' to Agong's
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While a state of emergency declared by the Yang di-Pertuan Agong gives due consideration to the rights of a citizen who is detained, there is almost no limit to the authority of the prime minister under the National Security Council Act 2016.

So declares former prime minister Dr Mahathir Mohamad, who went on to say that the NSC Act gives Najib powers that make him, technically, more powerful than the Agong in any place he declares a security zone under the Act, for which he is only accountable to himself.

Mahathir argued that while the authority to act may rest with the Director of Operations of the NSC, the ultimate power rests with the prime minister, as chairperson of the NSC.

Having taken the trouble to peruse both the Federal Constitution and the NSC Act itself, which Mahathir contends most people won't bother to read, he went on to list some of the powers the NSC Act gives the prime minister:

- To exclude and evacuate persons, declare curfew, control movements, roads, waterways and aircraft;
- Arrest persons, search and seize vehicles and personal properties;
- Take temporary possession of land, buildings or movable property, destroy unoccupied buildings and demand for resources;
- Use reasonable and necessary force; and
- Dispense with inquests, enforce obligations of secrecy and ignore suits and legal proceedings.

Mahathir pointed out that these alone give Najib dangerous discretionary powers.

"He can use reasonable force and dispense with any inquest, should an enforcement officer or the person apprehended dies. He is fully protected against suits and legal proceedings.

"All proceedings of the NSC will be official secret. No member of the council may reveal anything, including apparently criminal acts committed," Mahathir claimed in a blog posting today.

He said the Agong's assent, albeit on the advice of the prime minister, to declarations of emergency has been a safeguard because the laws that protect citizens and ensure justice will be suspended when an emergency is declared.

"But now, this power of the Yang di-Pertuan Agong has become superfluous," Mahathir claimed, noting that when it comes to declaring security areas under the NSC Act, there is no one to advise Najib. The prime minister himself makes all decisions.

He said that Najib, as chairperson of the National Security Council, has the right to disregard all laws in an area once it is declared as a security zone, and can exercise powers under the Act at will.

"Najib's rights are far more numerous and superior in comparison with the rights and powers of the Yang di-Pertuan Agong. There is no more need for reference or approval of the Yang di-Pertuan Agong.

"Najib as Chairman of the Council simply advises himself as the Prime Minister," sniped Mahathir.

While there are other members of the National Security Council, critics of the Act have pointed out that they will be ones handpicked by the prime minister, who also chairs the council.

Mahathir opined that the Act relegates the constitution to the back burner, which he said is wrong.

Though he lamented that while many proudly declared the constitution to be the supreme law of the land, no one would do anything when it is breached.

The NSC Act was rushed through to gazetting by the government, despite recommendations for amendments to it from the Conference of Rulers, Opposition MPs, members of the Dewan Negara and legal professionals.

It has now become law, even without royal assent, ironically because of a constitutional amendment removing the safeguard of requiring the Agong's signature before any bill passed by both Houses of Parliament can be gazetted into law - which Mahathir himself brought into place.

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